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In re Application of :
PALANISAMY et al. :
Application No.: 10/541,189 : NOTIFICATION
PCT No.: PCT/US03/41210 :
Int. Filing Date: 19 December 2003 :
Priority Date: 31 December 2002 :
Attorney Docket No.: H0004231 US :
For: NONAQUEOUS ELECTROLYTE :
:

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 19 December 2003, applicant filed international application PCT/US03/41210, which claimed a priority date of 31 December 2002 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 22 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2005.

On 29 June 2005, applicant filed via facsimile transmission a TRANSMITTAL LETTER for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee. These application papers were assigned application number **10/541,189**.

On 25 August 2005, applicant filed a second TRANSMITTAL LETTER for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee. These application papers were temporarily assigned application number **10/547,241**.

DISCUSSION

As is evident from the above recited facts, applicant submitted two sets of papers to enter the national stage for the same international application. The submission of two sets of national stage papers to enter the United States is improper.

35 U.S.C. 363 states:

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a

national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in 102(e) of this title. (emphasis added)

Further, 35 U.S.C. 371(b) states:

(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty. (emphasis added)

The language of 35 U.S.C. 363 and 371 refers to the national stage of the PCT in the singular only, and thus only one (1) national stage application in the U.S. may develop from an international application. The Transmittal Letters filed 29 June 2005 and 25 August 2005 indicate that each submission is a submission "under 35 U.S.C. § 371" of PCT/US03/41210. No conflicting instructions appear in the application papers. Accordingly, each submission should have been treated as a national stage application submitted under 35 U.S.C. 371. In that only one national stage of a PCT application is permitted, it would have been proper for all of the submissions to be placed in a single application and assigned a single application number. Accordingly, all of the papers filed on 29 June 2005 and 25 August 2005 have been placed in application number **10/541,189**.

Applicant should use application number **10/541,189** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/US03/41210.

Submission filed 29 June 2005

As noted above, the submission filed 29 June 2005 was filed via facsimile transmission. Facsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt for the filing of the basic national fee necessary to enter the national stage. 37 CFR 1.6(d)(3). Accordingly, the papers filed 29 June 2005 via facsimile transmission will not be accorded a date of receipt.

The fees charged based on the submission filed 29 June 2005 will be credited to Deposit Account 01-1125.

Submission filed 25 August 2005

As also noted above, the period for paying the basic national fee in the United States expired at midnight on 30 June 2005. The submission filed 25 August 2005 was after this period. Therefore, the application is abandoned as to the United States of America for failure to pay the basic national fee in the United States by thirty months from the priority date.

CONCLUSION

For the reasons set forth above, the submission filed 29 June 2005 and the submission filed 25 August 2005 have been placed in the file of application number **10/541,189**.

For the reasons set forth above, the application papers filed 29 June 2005 will not be processed in application number **10/541,189** as the national stage application of PCT/US03/41210.

For the reasons set forth above, application number 10/541,189 (the application papers filed 25 August 2005) is abandoned as to the United States of America. Applicants may wish to consider filing a petition to revive under 37 CFR 1.137.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for preparation and mailing of a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application is abandoned as to the United States of America for failure to pay the basic national fee by thirty months from the priority date.



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